

Bob Wyatt Letter of Concerns from July 6, 2023 and responses from the By-Law Submitters
Compiled after the Candidates Forum

Bay View BOT members,

I am very concerned about proposed by-law 77. This is a solution seeking a problem. At no time during the last year has anyone attended a Building & Grounds meeting to express concern about any alterations being made to the bluff area.

Incorrect - Numerous emails and responses were exchanged beginning July 2022. There was a personal meeting with Bob Wyatt late summer 2022 to discuss his position. Members attended the September BOT meeting to ask questions and express their concerns to the Board.

We have received numerous requests from leaseholders to make personal alterations to the Bayside, Blk 39, waterfront which is excluded from this proposal.

- ***This is a separate issue***

Here are some of my concerns:

1. This by-law's proposal is contrary to our normal way of operating. It was not discussed with Building & Grounds or Operations Committees. I first read it the evening of July 4th. There has been no discussion among the broader community to explore its benefits and drawbacks. For this reason alone, the BOT should oppose the passage of the proposed by-laws until it has been discussed and perfected.

- ***There is no requirement for a member initiated By-Law to be submitted to those committees. The By-Law was submitted to the By-Law Committee and was approved for submission.***

2. As someone trained in surveying and familiar with property descriptions, it is not clear if this proposed by-law impacts all property west of Reed including leaseholds or only that property transferred by deed in 1983. Is any property part of this transfer on the land side of US31 included?

- ***The leaseholds are not impacted, nor are the operations or maintenance of the Bay View Association. The "southern boundary consists of US31, various leaseholds along US 31 and the Bay View Inn."***

3. Our sanitary sewer pump house is 40 years old and at the water's edge. It will need to be replaced in the future and be located farther from the bay.

- ***Normal operations and operational decisions of the Association are not impacted by the By-Law. The By-Law specifically mentions the pump house. "c) Such area shall not be mined or excavated, except as necessary to permit the maintenance and access for the stated use of the Bay View Bluff including operations of the Bay View Association and recreational activities, tennis courts, parking areas, Memorial Garden, waterfront activities, boat storage, etc."***

4. A special committee reviewed the benefits of tying into the Harbor Springs/ Bear Creek sanitary sewer system. While this had some potential benefits, it was not permissible under our current contracts.

- ***Not relevant. Covered under #c.***

5. The Memorial Garden proposed a drinking fountain and live viewing camera last fall. Would such minor changes be violations of this by-law?

- ***No. Normal operations and operational decisions of the Association are not impacted by the By-Law (section #c).***

6. Recreation and staff have raised concerns about the need for further ADA improvements at the tennis courts and at the waterfront- pool accessibility and general accessibility from the parking lot to the waterfront. Based on recent high water level experience, any replacement pool might have to be built higher and in a different location than the current pool.

- ***Not relevant. These types of capital investment are another issue. Normal operations or***

operational decisions of the Association are not impacted by the By-Law (section #c).

7. Any increase in the number of tennis courts could affect the amount and location of parking.

- ***Not relevant. These types of capital investment are another issue. Normal operations and operational decisions of the Association are not impacted by the By-Law (section #c).***

8. US31 bisects Bay View with only one at grade crossing of US 31 connecting both parts of Bay View. We have an ever increasing number of carts, power wheelchairs joining pedestrians on a 6' wide sidewalk within feet of US31. What is Bay View's liability should someone on the sidewalk swerve into US31 traffic to avoid a vehicle attempting to enter US31 from a Bay View leasehold or road? The Operations Committee has been working to improve site lines at such intersections to reduce this risk. Complaints were received about Greenwood and US31 both last season and this season.

- ***There is a sub-committee working with the Trails Council on safety along the existing bike trail. Bob knows this.***
- ***There is simply no way we want to expose our children, families and seniors to a 14' paved, public access corridor slicing through the Bluff – an integral part of our safe, walkable greenway. In fact, with the increase of E bikes and the Council's count of 118,000+ bikes per year the chances of a security breach or an accident with Bay View children and our pedestrians are greatly increased.***

9. Bay View has several stormwater discharge points west of Reed that may require pollution abatement in the future. No provision is included for future law and ordinance compliance.

By-Law section #d specifically allows for any necessary operational responses to these issues. "d) Notwithstanding underground utility easements or shoreline protection easements that may be required in the future, no easements not previously recorded shall be granted to any individual, group or governmental organization for purposes of traversing, accessing, ingress or egress along the Bluff nor be subjected to any other use or activity which is inconsistent with the purposes of preservation set forth in this By-Law 77."

It is a mistake to support a by-law change lacking clarity that could require litigation to clarify or inhibit Bay View's ability to rapidly address an environmental issue, especially one such as sanitary sewage which could require closure of Bay View until resolved.

- ***There is far more exposure to safety or security incidents, liability and litigation by allowing public access to the Bluff, than by protecting it.***
- ***Again, #c expressly enables Bay View to maintain normal operations.***

For these reasons, the BOT should oppose this proposal at this time leaving the door open to support a future proposal.

- ***We NEVER heard from Operations that they would reject the proposal and say "No" to the Trails Council. The board responded that they are not considering the proposal from the Trails Council "at this time." We feel this By-Law is necessary now.***

Neither Building and Grounds or the Operations Committee has had the opportunity to discuss this proposal

- ***Again, there is no requirement that those committees review a member initiated By-Law.***

Summary

Feedback over the past year has been incorporated into By-Law #77. The By-Law is timely. It is obvious that we need to protect the Bluff in the same way we protected the Woods in 2000.

Submitted by: Jeremy Piper, Peggy Child Smith, Mary and Arthur Rouse